THE LAVVFULNES Of obeying the Present Government.

Proposed

By one that loves all Presbyterian lovers of Truth and Peace, and is of their Communion.

By mr Rouse a member of the [illegible] quest of Eaton

JOHN 7. 24.

Judge not according to the appearance, but judge righteous judgement.

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The lawfulneſſe of obeying the preſent Government.

A Declaration hath been lately publiſhed, wherein the grounds are expreſt of ſetling the preſent Government, with which if any be not ſo far ſatisfied as to think that ſettlement lawfull, yet even to ſuch is this Diſcourſe directed, which propoſeth Prooſes, that though the change of a Government were beleeved not to be lawfull, yet it may lawfully be obeyed.

THe Apoſtle intreating of purpoſe upon the duty of ſubmiſſion and obedience to Authority, layes down this precept; *Let every ſoul* Rom. 13. *be ſubject to the higher powers, for there is no power but of God; the powers that are, are ordained of God*; and hereupon infers, *Wherefore ye muſt needs*

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be subject not only for wrath, but for conscience sake. And that he speakes not in this place meerly of power or authority abstracted from persons, but of persons cloathed with that authority, appeares in that he saith; *For, rulers are not a terrour to good workes.* So that he speakes of persons ruling, as well as of the power by which they rule. And againe, *He is the Minister of God,* and they are Gods Ministers; & accordingly he directs *Timothy,* to pray for a blessing upon those that are in authority. Now if the Powers, Rulers, and those that were in authority in that time were ordained of God, and were to be obeyed for conscience sake, let us consider how lawfully they came into that power, rule, and authority. This Epistle most probably, if not certainly, was written in the time of *Claudius Cæsar,* or *Nero,* the former of which banished the Jews out of *Rome,* upon which occasion *Aquila* and *Priscilla* came out to meet with *Paul* at *Corinth:* and by the sentence of the latter, *Paul* having made his appeale to *Cæsar* finished his course, and passed unto a crowne of righteousnesse. And now, behold the lawfulnesse by which these two persons came to be invested in their power and authority.

Potestatis nomine, intelligo Magistratum, qui est cum potestate & autoritate; maluit tamen Apostolus ipsam potestatem nominare quàm hominem &c. Rolloc. in locum.

1 Tim. 2. 2.

Acts 18. 1, 2.

Timore cædis exterritus prorepsit ad solarium proximum, interq; prætenta foribus vela se abdidit; intentem, discurrens forte gregarius miles animadversis

Of *Claudius Cæsar* the Story tells us this; After the death of *Caius Caligula,* the Consuls and Senate of *Rome* entred into a consultation, how they might restore the Common-wealth to her ancient freedom, which by the *Cæsars* had been taken from them. So that the taking in of an Emperour, and consequently of *Claudius* for Emperour, was directly against the

the wills and resolution of the Consuls and Senate; yet these anciently for many hundred yeares had the chiefe power of Government; But see the way of *Claudius* his coming to the Empire; during the *Interregnum*, *Claudius* being frighted with the newes of *Caligula's* death, and fearing himselfe might be enquired for upon suspicion with-drew, and hid himselfe behind the Hangings, or covering of a doore; where a Souldier seeing his feet, and desirous to know what he was drew him forth, and upon knowledge of him saluted him Emperour, though even then for feare falling downe low before him. This one Souldier brought him forth to his fellow Souldiers, who lifted him up as Emperour; and thus while the Senate was slow in executing their purposes, and differences grew among them, *Claudius*, who was sent for by the Senate to give in his councell concerning the common freedome, undertooke the Empire. Thus in one Souldier at first, and then in more, was the foundation of *Claudius* his Emperiall power, against the will, consultations, and endeavours of Consuls and Senate. And for *Nero* (his Successor) *Britannicus*, who was nearer of kin to *Claudius*, being his Son, was kept in by the cunning of *Neroes* mother, and by the same craft *Nero* being brought forth to the Souldiery, was first saluted Emperour by them. This sentence of the Souldiers was followed with the consent of the Senate, and then it was not scrupled in the Provinces; so that the Souldiery was also the foundation of *Neroes* Empire. Thus we see Rulers

pedibus, & studio sciscitandi quisnam esset, agnovit, extractumque; & præmetu ad genua sibi accidentem, Imperatorem, salutavit. Hinc ad alios commilitones fluctuantes, nec quioquam adhuc quàm fremitus perduxit. Ab his lectice impositus, & quia servi diffugerant, vicissim succollantibus, in castra delatus est, tristis ac trepidus miserante obvia turba, quasi ad pœnam raperetur insons. Receptus intra vallum, inter excubias militum pernoctavit, aliquanto minore spe quàm fiducia. Nam Consule cum Senatu, & cohortibus urbanis ferum capitoliumq; occuparunt, asserturi comunem libertatem, accitusq; & ipse per Tribunum plebis

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in curiam ad ſuadenda quæ viderentur, vi ſe & neceſſitate teneri reſpondit. Verum poſtero

put by Souldiers into that power which is ſaid by the Scripture to be ordained of God; and even to theſe Rulers men muſt be ſubject for conſcience.

die Senatu ſegniore in exequendis conatibus per tædium ac diſſentionem diverſa cenſentium, & multitudine quæ circumſtabat, unum rectorem jam & nominatim expoſcente, armatos pro concione jurare in nomen ſuum paſſus eſt, promiſitq; ſingulis quinadena H. S. primus Cæſarum fidem militis, etiam præmio pigneratus. Sueton in Claudio. *Agrippina velut dolore victa, & ſolatia conquirens, tenere amplexu Britannicum veram paterni oris effigiem appellare, &c. Antoniam quoq; & Octaviam attinuit, & cunctos aditus cuſtodiis clauſerat, crebroq; vulgabat ire in melius valetudinem principis, quò miles bona in ſpe ageret, tempuſq; proſperum ex monitis Chaldæorum attentaret. Tunc medio diei, tertio ante idus Octobr. foribus palatii repente diductis, comitante* Burrho, Nero *egreditur ad cohortem, quæ more militiæ excubiis adeſt, ubi monente præfecto, feſtis vocibus exceptus, inditur lectica. Dubitaviſſe quoſdam ferunt reſpectantes rogitanteſq; ubi Britannicus eſſet? Mox nullo in diverſum auctore, quæ offerrebantur ſecuti ſunt. Illatuſq; caſtris* Nero, *& congruentia tempori præfatus, promiſſo donativo ad exemplum paternæ largitionis Imperator conſalutatur. Sententiam militum ſecuta patrum conſulta, nec dubitatum eſt apud provincias.* Tacit. Annal. Lib. 12.

But paſſing from the Romane ſtate to our owne; ſure we are that in this Nation many perſons have beene ſetled in ſupreame power and authority by meere force without title of inheritance, or juſt conqueſt. And it hath been obſerved by ſome that accurately have looked into our ſtory, that not any three immediately ſucceeding each other, came to the Crowne by true lineall ſucceſſion and order of blood. Neither is there any great difficulty in finding it, untill we come to Queene *Mary*, whoſe title being by an inceſtuous marriage, theſe obſervers ſay that Queene *Elizabeth* ſhould have raigned in her ſtead; However, we are cleerly told by ſtory, that five Kings on a row (of which the Conquer was the firſt) had no title at all by lineall deſcent and proximity of blood. The firſt came in by force; The ſecond

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ſecond and third had an elder Brother living when they came to the Crowne; The fourth raigned when his Predeceſſor had a Daughter, and Heire living which was *Mawd* the Empreſſe; The fifth being the Son of that Empreſſe, raigned while his Mother was alive, by whom his Title came. But leaving theſe, and *Edward* the third who raigned in his Fathers life time, and the three *Henries*; fourth, fifth, and ſixt, who raigned upon the *Lancaſtrian* (that is a younger Brothers) Title, Let us more particularly conſider *Henry* the ſeventh; This *Henry* came in with an Army, and by meere power was made King in the Army, and by the Army; ſo that in the very field where he got the Victory, the Crowne was ſet upon his head, and there he gave Knight-hood to divers; And upon this foundation of military power, he got himſelfe afterwards to be ſolemnely Crowned at *Weſtminſter*. And ſoone after upon authority thus gotten, he called a Parliament, and in that Parliament was the Crowne entailed upon him and his Heires. Thus both his Crowne and his Parliament were founded upon power; As for any right Title, he could have none; for he came from a Baſtard of *John* of *Gaunt*, which though legitimated by Parliament for common Inheritances, yet expreſſely was excluded from right to the Crowne. And for his wives Title, that came in after his Kingſhip, and his Parliament, which before had ſetled the Crowne upon him and his Heirs. And he was ſo farre from exerciſing authority in her right, that her name is not uſed in any

See Speed in H. 7. n. 1. & Seq.

Lawes

Lawes as Queene *Maries* was, both before and after her marriage with the Spaniſh King. Now this and the reſt who came in by meere power without Title of inheritance, being in their opinion who are now unſatisfied, to be held unlawfull, yet the maine body of this Nation did obey them, whilſt they ruled, yea doth yield ſubjection to their Lawes to this very day. And the learned in the Lawes doe continually plead, judge, juſtify, and condemne according to theſe Lawes; So that herein the very voyce of the Nation with one conſent ſeemes to ſpeake aloud; That thoſe whoſe Title is held unlawfull, yet being poſſeſt of authority may lawfully be obeyed.

And hereunto Divines and Caſuiſts give their concurrence; among them one that is reſolute both for Monarchy and lineall Succeſſion, thus expreſſeth his judgement, both for ſeeking of right and juſtice from an uſurper (whom he calleth a Tyrant, in regard of an unjuſt Title, not in reſpect of Tyranicall oppreſſion) and for obeying his commands. First, that Subjects may lawfully ſeek juſtice of him; And ſecondly, that if his commands be lawfull and juſt, they muſt be obeyed. And another well eſteemed in the Reformed Churches, is of the ſame judgement.

Dicendum eſt, licitè ſubditos ab eo (qui tyrannus jure & titulo eſt) jus petere, quiâ quamvis jus & titulum non habeat, respublica tamen tacitè conſentit in hoc ut civilus ipſi Tyranno, Facto, non jure ſubditis, jus dicat, acſi eſſet competens judex & legitimus ſuperior. Item, ſi mandata tyranni ſint æqua, & juſta, parendum eſt. Azor. Inſt. Mor. Par. 2. Lib. 10. Cap 4. Non peccat ſubditus tyranni, qui dominium & juriſdictionem alicujus ditionis uſurpavit, petendo ab eo juſtitiæ adminiſtrationem, &c. Siquidem dat operam ut qui peccat juriſdictionem uſurpando, non peccet etiam juſtitiæ adminiſtrationem præterminendo; Ex Navarri manual. cap. 14. n. 41.

Si mandata principis, alioqui Tyranni, ſint æqua et juſta, parendum eſt. Alſted, Theol. Caſ. Cap. 17.

Paræus

Paræus saith, That it matters not by what means or craft *Nimrod*, *Jeroboam*, got Kingdomes to themselves; For the power is one thing which is of God, and the getting and the use of the power is another; And after: The beginning of *Nimrods* power was indeed evill, as to the getting and usurping power, because abusing his strength, force, & wealth, he violently subdued others, and compelled them to obey; but not the power or force wherewith he seemed to be indeed by God, above others; And another more plainely. When a question is made whom we should obey; it must not be lookt at what he is that exerciseth the power, or by what right or wrong he hath invaded the power, or in what manner he doth dispence it, but onely if he have power. For if any man doe excell in power, it is now out of doubt, that he received that power of God; wherefore without all exception thou must yield thy selfe up to him, and heartily obey him.

Civilem & herilem expressè verbo sanxit. Gen. 9 *Qui sanguinem hominis fuderit, ejus sanguis etiam fundetur ab homine Non utiq; à quovis; prohibuit enim, non occides: Sed à Magistratu divinitus ordinato Nec refert quibus modis vel artibus Nimrod, Jeroboam, aut alii regna sibi paraverint. Nam aliud est potestas quæ à Deo est; aliud acquisitio et usus potestatis. Paræ. in* Rom. 13.

Potestatis Nimrodi initium fuit quidem malum &c. Quum igitur quæritur cui parendum, non est spectandum qualis fuit qui potestatem exercet, nec quo jure vel injuria quis potestatem invaserit, quove ratione eam administret, sed tantum si potestatem habeat. Si enim quis potestate polleat, jam inhibitum est illum à Deo eam potestatem accepisse, unde sine omni exceptione illi te permittat oportet, & parere ex animo.

And indeed how can it be otherwise? for when a person or persons have gotten Supreme power, and by the same excluded all other from authority, either that authority which is thus taken by power must be obeyed, or else all authority and government must fall to the ground, & so confusion (which is worse then tirulen Tyranny) be admitted into a Com-

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a Common-wealth; And (according to the doctrine of King *James*) the King being for the Common-wealth, and not the Common-wealth for the King, the end ſhould be deſtroyed for the meanes, the whole for a part. If a Maſters mate had throwne the Maſter over Board, and by power would ſuffer no other to guide the Ship but himſelfe; if the Marriners will not obey him commanding aright for the ſafe guiding of the Ship, the Ship muſt needs periſh and themſelves with it. And whereas ſome ſpeake of a time for ſetlement, they indeed do rather ſpeak for a time of unſetlement; for they will have an unſetlement firſt, and a ſetlement after. And whereas like doth produce its like; yet they would have an unſetlement to beget a ſetlement. They would have confuſion, diſtraction, deſtruction to bring forth order and ſafety. But the former Scriptures ſpeake not of the future, but of the preſent time; not of obeying thoſe that ſhall be powers, and ſhall be in authority; but the powers that are, and thoſe that are in authority. Neither doe the Caſuiſts and Divines ſpeake of obedience to thoſe that ſhall be ſetled but thoſe that are in actuall poſſeſſion of authority. Neither did our Anceſtors in the former examples defer obedience to the Kings that came in by power without Title; but gave it preſently, being preſently veſted and poſſeſſed of authority. Beſides, let it be conſidered whether that may not be called a ſetlement, how ſoone ſoever it is when there is ſuch a way ſetled that men may have Juſtice if they will, and may enjoy that maine end of Magiſtracie,

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giftracie, to live a peaceable life in godlineſſe and honeſty.

And indeed when one is in poſſeſſion by power, and another pretends a Title, what can the maine body of a Nation, which conſiſts of the Common-people doe in this caſe? They cannot judge of Titles; but thy ſee who doth viſibly and actually exerciſe power and authority. Yea even Learned men, and States men have been found ignorant of the former obſervations, of the not ſucceeding three in order of blood ſince the Conqueſt; and then how ſhould the Common people know it? Yet further, even Peeres, chiefe Cities, Parliaments, and all having to one in every three, thus ſubjected themſelves upon termes of power and not of right; what can be expected but that what hath been done, may or ſhould be done hereafter? eſpecially when in this preſent age obedience is given to the Lawes and Commands of thoſe Princes? But ſome ſay

What Right had *William* ſurnamed the Conquerour? what Right (we ſpeake of a Right of equity) had his Sons *William* the ſecond, and *Henry* the firſt, while their elder brother lived, &c. Parliaments as Kingdomes, give their voice with power; & he who hath the force doth commonly carry the effect of Right. Speed in *H.* 4. The King (*H.* 7.) made ſpeed to *London* as to the chiefe ſeate and Epitome of the Engliſh Monarchy &c. The Mayor of *London* and his Fellowſhip received him in Violet at *Horneſey* Parke; but his entrance (which was at *Shordich*) was honoured with a very great troope of the Peeres and Nobles in his Trayne, &c. The whole Houſe of Parliament concurring finally in eſtabliſhing by a ſolemne Act, the Crowne upon him and his Heires for ever. *Id.* in *H.* 7.

that there are Oathes that juſtifie diſobedience to the preſent Government. Surely Oathes are ſacred bonds and reverent obligements, and where they doe not themſelves leave or make us free, we are not to cut or breake them in peices; Yet concerning theſe there are faults on both hands: On the

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one ſide the ſlighting of an Oath, (and ſuch is the comparing it with an Almanack) which is a light aſwell as an unproper compariſon; except it were ſuch an Oath as was made onely for a yeare; But we finde ſome part of the Vow and Covenant to ſpeake of all the dayes of our lives, which doubtleſſe may lye on many of the takers for many years; True it is that the obligation of ſome things may end, becauſe they can no longer be kept, as that of the Kings perſon; for to impoſſible things there is no obligation: but will any man that underſtands, and ſavours Religion and Piety, ſay that the clauſes which concerne Religion and Piety are expired? Did we promiſe to God in our ſeverall places and callings, to extripate Profaneneſſe, Hereſie, and Blaſphemy, and to endeavour a reformed life in our ſelves and ours; onely till our Enemies were overcome, and then to make an end? What were this but to ſay unto God, If thou wilt deliver us, we will be bound to thee till we are delivered and no longer? Would this invite God to deliver us from our enemies, or rather to keepe our Enemies ſtill in ſtrength againſt us? leaſt we being delivered from our Enemies ſhould not ſerve him in righteouſneſſe and holineſſe all our lives. Surely this is too like that courſe of carnall *Iſrael*, of whom it is written, *When he ſlew them, then they ſought him, and they enquired early after God; but their heart was not right with him, neither were they ſtedfaſt in his Covenant.* Much more piouſly and faithfully a reverend and truly ſpirituall Divine; *A well groun-*

Regula juris. Impoſſibilium nulla eſt obligatio.

Pſal. 78. 34.

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ded Covenant is a sure, a firme and an irrevocable Act. When you have such an All This *(and such you have) as is here concentred in the Text, to lay into, or for the foundation of the Covenant; the superstruction (is æternitati sacrum and) must stand for ever.*

Mr. Carill in his Sermon upon Nehe. 5. 38. concerning the Covenant. Octob. 6. 1643.

But on the other side there are other faults; such are the urging of an Oath or Covenant against enemies, and not against friends in one and the same Action; and if not altogether so, yet a slight and diminishing charge of it upon one, and a vehement and aggravating charge of it upon the other. Another fault may be, a stiffe insisting on one part, and a neglect, or at least silence in another part; as likewise when by event two parts of it come to be inconsistent, to chuse and inforce the keeping of the lighter or lesse necessary part, and to give way to the losse and not keeping of the greater. There is another, in racking an Oath or Covenant, to make it speake that which it meant not. And here it were good to consider, whether there be any clause in any Oath or Covenant, which in a faire and common sence forbids obedience to the commands of the present Government and Authority, much lesse when no other can be had, and so the Commonwealth must goe to ruine. And whether it forbids obedience to the present Authority more then to Lawes that have beene formerly enacted, by

Quando res illa, quam quis juramento confirmavit, est nimis ardua; aut quando quis qui juravit, ex mutatione virium vel fortunæ, effectus est parum aptus ad id exequendum; aut deniq; quando res juramento confirmata est juranti impedimento, ne bono publico consulat, tunc est legitima causa dispensandi in juramento. Sayr. lib. 5. c. 8. n. 12.

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Si id quod juramus, primò fuerit licitum, postea causis aliis intervenientibus illicitum fiat, aut etiam impossibile, tum nullo modo conscientiam obligat. Alsted. Theol. Cas. cap. 15.

those which came into Authority meerly by power? If it be said that in the Oath of Allegiance, Allegiance is sworne to the King, his Heires, and Successors, if His Heires be not His Successors, how doth that Oath binde? either the word Successors must be superfluous, or else it must binde to Successors as well as to Heires; and if it binds not to a Successor, that is not an Heire, how can it binde to an Heire that is not a Successor? And if you will know the common and usuall fence (which should be the meaning of an Oath) of the word Successors, you need not so much aske of Lawyers and learned persons, as of men of ordinary knowledge, and demand of them, Who was the Successor of *William* the Conquerour, and see whether they will not say, *William Rufus*; and who succeeded *Richard* the third, and whether they will not say *Henry* the seventh? and yet (as it appeares before) neither of them was Heire. So it seemes in the ordinary acception, the word Successor is taken for him that actually succeeds in Government, and not for him that is actually excluded. And as in Language the ordinary acception of a word is to be taken for the meaning, so that meaning is to be understood as most proper to have been taken in an Oath.

Juiurandum in foro conscientiæ semper est interpretandum juxta mentem jurantis; at in foro exteriori seu judiciali semper est judicandum secundum communem sensum, quem ipsa verba reddunt, & secundum communem hominum usum. Alsted. cap. 15. n. 13.

Yet withall this Quære may be added; While the Son is in the same posture in which the Father was, how comes this Oath at this time to stand up and plead for disobedience in regard of the Son, that was asleep and silent in regard of the Father?

Thus

Thus have I gone towards peace (as I beleeve) in the way of truth; and as farre as it is truth, and no further, I desire it may be received. I also wish that those who read and examine it, may doe it (as I professe sincerely my selfe to have endeavoured) with a calme, cleare, and peaceable spirit, without prejudice or partiship. And I doubt not but to such upright seekers of Truth, Truth will appeare in a true shape; whereas partiall and prejudiced mindes speake unto Truth what they would have her speake unto them, and doe not heare her what she saith of her selfe.

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FINIS.